



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 13, 2015

1510-VS-14

Exhibit 1

Petition Number: 1510-VS-14

Subject Site Address: 18710 Chad Hittle Drive (the "Property")

Petitioner: Almost Home Kennel (the "Petitioner")

Request: The petitioner is requesting a Variance of Development Standard to allow a 3' x 2' one-sided, off-premise sign in the right-of-way of Chad Hittle Drive.

Current Zoning: GB: General Business District ("GB")

Current Land Use: Vacant

Approximate Acreage: 2.03 acres +/-

Previous Petitions: 96-V-21

Exhibits:

1. Staff Report
2. Location Map
3. Application
4. Proposed Sign Elevation
5. Proposed Sign Location
6. Letter of Grant, 96-V-21

Staff Reviewer: Pam Howard

Petition History

This petition is scheduled to receive a public hearing at the October 13, 2015, Board of Zoning Appeals meeting.

Analysis

Location: The Property is approximately 2.03 acres +/- in size and is located at 18710 Chad Hittle Drive. The Property is zoned GB and is currently used as a Single-family Residence and Boarding Kennel. Adjacent properties are also zoned GB, or AG-SF1: Agriculture Single-family Rural.

Property History: The Property is used as a boarding kennel and single family residence. The kennel has been in existence since 1963 and is a Legal Nonconforming Use¹. On August 19, 1996, a Variance of Use was granted to permit expansion of the Kennel.

The Property does not have road frontage and had until recently been accessed by an easement connecting to US 31. They previously had a sign just off of US 31 along the access easement that directed customers to their business. When US 31 was upgraded, the sign was removed. The curb cut onto US 31 has since been closed and the business was also given a new address on the newly constructed Chad Hittle

¹ Article 9.5(A) Nonconforming Regulations; Nonconforming Uses, Land, or Structures and Land in Combination



Drive. A curb cut onto Chad Hittle Drive was placed where the access easement turns west towards the Property. This is now the primary access to the property.

Variance Request: As summarized in the Petitioner's Statement of Intent on the Application (**Exhibit 3**), the Petitioner has filed to variance request to allow a 3' x 2' off-premise sign in the right-of-way of Chad Hittle Drive. The Property does not have road frontage and is accessed by an easement. Per the UDO, for Individual Nonresidential Uses "The total Sign Area Allocation permitted shall be one (1) square foot of Sign Area per one (1) linear foot of building fronting on a public Right-of-way². Due to the lack of road frontage, this business would not be permitted any Sign Area without the variance. Additionally, The Prohibitions list in the UDO includes "Signs placed in any Right-of-way, except publically owned traffic-control and transit signs, informational, identification, directional signs, and temporary signs, as regulated by this Article"; and "Off-premise Signs; except as otherwise permitted by this Article."

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies this Property within the "Employment Corridor"³ land use classification.

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standards. This petition is scheduled to receive its public hearing at the October 13, 2015, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO⁴ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁵ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

² Article 6.17(H)(1) Development Standards; Sign Standards, Individual Nonresidential Signs; Sign Area

³ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

⁴ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁵ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



Variance of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the Unified Development Ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

Department Comments

If the Board is inclined to approve the variance, then the Department recommends the following written findings of fact:

Recommended Findings for Approval: A Variance of Standard may be approved under Indiana Code § 36-7-4-918.5 and the City of Westfield-Washington Township Unified Development Ordinance (Article 10.14.G.2) only upon a determination that:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community. The proposed sign will be placed at a location that will not obstruct vehicular views when entering or exiting the Property.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The use of the property will not change, nor the scope of the business.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the business not being permitted to have a sign. The lot the business is located on does not have street frontage, therefore they have no Sign Area permitted. Further, the lack of frontage results in the inability to have a sign directing customers from Chad Hittle Drive to the Property.